1950.

File No. Town Plan II

Legal Department 50 (N)

B BRANCH

Subject:— Notifications under the Bombay Town planning Act-1915

P. S.
E

File No. Town Plan II/50 (N)

174-B

Legal Department.

The Health & Local Government Department draft at pages 71-73 (Correspondence section), does not state in specific terms in what manner the regulations are proposed to be modified. It merely states "to amend certain regulations." (Vide clause (4)). It appears necessary to state specifically the amendments in the regulations agreed to in the Secy. H.& L.G.D's note at pages 11-12 ante. Please see the draft supplied to H.& L. G.D! xx xxxxx under L.D. u.r. No. 12091 dated 28th October xx 1949.

2. A revised draft notification is sent herexx with.

Id/-J.H.D. 19/1
Additional Secretary to Government.

U.R. to H.& L.G.D.No. 889 dated the 19th January 1950.

BNS. 16/6/ 4c.

Legal Department.

Two revised draft notifications in place of L.S.G. & P.H.D. drafts are sent herewith.

Id/-J.R.D. 8/2
Additional Secretary to Government

U.R. to L.S.G.& P.H.D., No.1932, dated the 9th Feb. 1950.

BKS. 16/6/ 4e.

Legal Department.

In this case the Final Town Planning Scheme, Santacruz No. 1 was sanctioned by Government under G.N. G.D. No. 4094, dated the 16th May 1919 when the Santacruz Notified Area Committee was functioning. The notification in respect of the notified area, Santacru was cancelled under section 190 of the Bombay District Municipal Act, 1901 by Government under G.N. G.D. No. 8223 8213(a), dated 14th January 1935 with effect from 15th day of February 1934; and the area was included within the limits of the Municipal Borough o Bandra. It was, therefore, ascertained from H. and L. G. D. whether Government had issued any notification under section 15A of the Bombay Town Planning Act, 1915 vesting the propert and rights of the notified area of Santacruz in the Bandra Borough Municipality subject to all charges and liablilites affecting the same. The H. and L. G. D. has replied that when the area of the Bandra Municipality was extended so as to include the noticied area of Santacruz, no notification under section 45A of the Bombay Town Planning Act had been issued.

2 When the question arose whether the arrears of taxes due to the committees of the two Notified Areas of Santacruz and Andheri can be recovered, th R. L. A. in his opinion No. 6530, dated 13th November 1935 held that under section 191, of the Bomb District Municipal Act, 1901, as it then stood, onl the unexpended proceeds of the taxes vest in Gover nor the Municipalities can take any action to real the arrears. It was then advised that section 191 should be amended with retrospective effect from the date of the amalgamation of the Areas. Section 191 was accordingly amended by the Bombay District Municipal Amendment Act, 1936(Bom. XI of 1936), sub-section (1) of which provides as follo

" When by reason of the cancellation, under sub

section (2) of section 190, of a notification issued under section 187 ~~of~~ or 182, any area ceases to be a notified area, the property (including arrears of taxes) and rights which, prior to such cancellation, vested in the person or committee appointed for such area under clause (c) of sub-section (1) of section 188 shall, subject to all charges and liabilities affecting the same, vest in the local authority, if any, constituted for such area or within the limits of which such area is included, or if there be no such local authority, in His Majesty."

3. Even though as stated by the H. and L.C.D. no notification was issued under section 45A of the Bombay Town Planning Act, 1915, it appears from section 191 substituted by Bombay Act XI of 1936 that the property (including arrears of taxes) and rights which vested in the Santacruz Notified Area Committee have now been vested in the Bandra Borough Municipality subject to all the ~~Mumdrux~~Burough charges and liabilities affecting the same. The Bandra Borough Municipality was therefore competent to continue the scheme and to publish notification in the B.G.G. declaring its intention to vary the Final Town Planning Scheme, Santacruz No. I.

4. A revised draft notification under section 46 of the Act making the above position clear is sent herewith.

5. The Bandra Borough Municipality has now been abolished under section 2 of the Bombay Municipal (Extension of Limits) Act, 1950 and under section 34 of the said Act read with para. 4 of Schedule FF appended to the said Act, all rights, debts and obligations acquired or incurred by or on behalf of the Bandra Borough Municipality ~~and~~ subsisting on the date on which the said Act came

into force shall be deemed to have been acquired or incurred by the Commissioner in exercise of the powers conferred on him by the Bombay Municipal Corporation Act.

Id/-J.R.D. 2/5
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D., No. 5983 ,dated the
2nd May 1950.

BKS. 18/6/ 4e.

Legal Department.

In this case the Final Town Planning Scheme, Santacruz No. IV was sanctioned by Government under G.N., D.D. No.oA-406, dated 8th March 1926 when the Santacruz Notified Area Committee was functioning. The notification in respect of the notified area, Santacruz was cancelled under section 190 of the Bombay District Municipal Act, 1901 by Government under G.N., G.D. No.8213(a), dated 14th January 1935 with effect from 15th day of February 1934; and the area was included within the limits of the Municipal Borough of Bandra. It was, therefore, ascertained from H. & L.G.D. whether Government had issued any notification under section 45A of the Bombay Town Planning Act, 1915 vesting the property and rights o f the notified area of Santacruz in the Bandra Borough Municipality subject to all charges and liabilities affecting the same. The H. & L.G.D. has replied that when the area of the Bandra xxxx Municipality was extended so as to include the notified area of Santacruz, no notification under section 45A of the Bombay Town Planning Act x had been issued.

2. When the question arose whether the arrears of taxes due to the committees of the two Notified Areas of Santacruz and Andheri can be recovered, the R.L.A. in his opinion No.6530, dated 13th November 1935 held that under section 191 of the Bombay District Municipal Act, 1901 as it then stood, only the unexpended proceeds of the taxes vest in Government and that neither the Government nor the Municipalities can take any action to realise the arrears. It was then advised that section 191 should be amended with retrospective effect from the date of the amalgamation of the areas. Section 1 1 was accordingly amended by the Bombay District Municipal xxxx Amendment Act, 1936 (Bom. XI of 1936), sub-section (1) of which provides as follows :-

"when by reason of the cancellation, under sub-section (2) of section 190, of a notification issued under section 187 or 188, any area ceases to be a notified area, the property (including arrears of taxes) and rights which, prior to such cancellation, vested in the person or committee appointed for such area under clause (c) of sub-section (1) of section 188 shall, subject to all charges and liabilities affecting the same, vest in the local authority, if any, constituted for such area or within the limits of which such area is included, or if there be no such local authority, in His Majesty".

3. Even though as stated by the H. & L.G.D. no notification was issued under section 45A of the Bombay Town Planning Act, 1915, it appears from section 191 substituted by Bombay Act XI of 1936 that the property (including arrears of taxes) and rights which vested in the Santacruz Notified Area Committee have now been vested in the Bandra Borough Municipality subject to all the charges and liabilities affecting the same. The Bandra Borough Municipality was therefore competent to continue the scheme and to publish notification in the Bombay Government Gazette declaring its intention to vary the Final Town Planning Scheme, Santacruz No. IV.

4. A revised draft notification under section 46 of the Act making the above position clear is sent herewith.

5. The Bandra Borough Municipality has now been abolished under section 2 of the Bombay Municipal (Extension of Limits) Act, 1950 and under section 34 of the said Act read with para. 4 of Schedule IV appended to the said Act, all rights debts and obligations acquired or incurred by or on behalf of the Bandra Borough Municipality and subsisting on the date on which the said Act came into force shall be deemed to have been acquired or incurred by the Commissioner in exercise of the powers conferred on him by the Bombay Municipal Corporation Act.

Id/-J.R.D. 2/5
Additional Secretary to Government.

U.R. to L.S.G. & P.W.D. No. 5982 ,dated the 2nd May 1950.

BKS. 18/6/ 4c.